IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SIXTH DAY OF DECEMBER
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE V.ESWARAIAH**

**WRIT PETITION No. 27441 of 2005**

Between:

Ch. Venkaiah

**..... PETITIONER**

AND

District Collector, Prakasam District,

Ongole and 5 others

**.....RESPONDENTS**

**ORDER:**

Seeking a Mandamus, declaring the proceedings dated 25.11.2005 in Rc.CS2/3780/2005 passed by the 1st respondent thereby staying operation of order dated 29.09.2005 in Rc.CS2/2652/2004 passed by the 2nd respondent, as illegal and arbitrary, the present writ petition is filed.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

The petitioner is a fair price shop dealer of Katakanipalli village, Dornala Mandal of Prakasam District. It is stated that basing on the report of the Food Inspector, Markapuram, dated 07.07.2004, alleging that the petitioner has not distributed rice to eight cardholders and failed to produce renewal of authorization at the time of inspection and also he has been distributing less quantity of essential commodities, the authorization of the petitioner was suspended and immediately one Mr.Danda Venkateswara Reddy is appointed to distribute the essential commodities, by proceedings dated 15.07.2004 of the 3rd respondent.

A perusal of the order of the 3rd respondent dated 15.07.2004 goes to show that it is not an order made pending enquiry and the dealership of the petitioner has been suspended. When the words 'pending enquiry' are not mentioned, it is assumed and presumed that the said order is a final order. Admittedly, the petitioner has been suspended without any specific allegation and he has been suspended on the general and vague allegations. As against the said order, the petitioner filed an appeal before the 2nd respondent and the

2nd respondent by order dated 29.09.2005, stating that the period of suspension is not indicated in the order dated 15.07.2004 and therefore, the period of suspension is to be treated as a substantive penalty, and accordingly, set aside the order of suspension. As against the said order dated 29.09.2005, respondents 5 and 6 filed revision before the

1st respondent. It is stated that the petitioner also filed caveat on 22.10.2005. But in

spite of filing of a caveat, without hearing the petitioner and without giving any notice to the petitioner, at the instance of third parties, the 1st respondent-revisional authority granted stay of operation of the order of the appellate authority dated 29.09.2005.

I am of the opinion that the order of the revisional authority in staying the order of the appellate authority, without hearing the petitioner and without dealing with any of the contentions raised in the caveat application, is illegal, arbitrary and unsustainable. Admittedly, the order of suspension is made as a measure of substantive punishment, and therefore, the appellate authority has rightly set aside the same stating that the said order has been passed based on vague and unspecified allegations.

Having regard to the facts and circumstances of the case, the impugned order dated 25.11.2005, staying the order of the appellate authority dated 29.09.2005, is set aside, and the 1st respondent may issue a notice to the petitioner as well as to the revision petitioners, and dispose of the revision itself, in accordance with law. Till then, the petitioner is permitted to distribute the essential commodities, as a fair price shop dealer of Katakanipalli village, Dornala Mandal of Prakasam District.

With the above observations, the Writ Petition is allowed. No order as to costs.

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**V.ESWARAIAH,J**

Dated: 26.12.2005

Dsr